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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/691,988	10/23/2003	Stephen R. Calhoon	C018.PAT-1	2466

7590

06/17/2004

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EXAMINER

PECHHOLD, ALEXANDRA K

ART UNIT	PAPER NUMBER
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3671

DATE MAILED: 06/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/691,988

Applicant(s)

CALHOON, STEPHEN R.

Examiner

Alexandra K Pechhold

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) 10-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 8 and 9 is/are rejected.
- 7) ☒ Claim(s) 5-7 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date filed 10/23/03.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

2. **Claims 1, 8, and 9 are rejected under 35 U.S.C. 102(a) as being anticipated by Konno (WO 02/064894 A1).**

Regarding claim 1, Konno discloses an adjusting device comprising a center plate, seen as the cylindrical member below (C51) in Fig. 11; at least one supporting arm having a first end and a second end, seen as the three elements (C4) in Figs. 11 and 12, the first end securable to the center plate as illustrated in Fig. 11; and a securement assembly associated with the center plate, seen as elements (C5), (C41), and (C42) in Figs. 11 and 12.

Regarding claim 8, Konno discloses a first leg secured to the second end of the first supporting arm, seen as any of (C41) in Fig. 11, and a first supporting plate secured to the first leg, seen as the portion of (C42) below a particular (C41) in Fig. 11. Similarly, a second leg is seen as another (C41), and the second supporting plate as the (C42) below the (C41); and a third leg is the third (C41) with the plate (C42) therebelow.

Regarding claim 9, Konno illustrates the claimed recitation as discussed in regards to claim 8 above and illustrated in Fig. 11.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over**

Konno (WO 02/064894 A1). Konno illustrates a first supporting arm with first and second ends, the first end securable to the center plate, and likewise as second and third supporting arm, all seen as the three elements (C4) in Fig. 11. Fig. 11 appears to illustrate the angles between the three elements (C4) as close to 60 degrees each, though it is unclear exactly what the angles are. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the angle between the three elements (C4) of Konno to be 60 degrees each, since Konno discloses three arms, and a 60 degree angle between each would ensure the best weight distribution and structural integrity.

5. **Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Konno (WO 02/064894 A1) as applied to claim 1 above, and further in view of Clark (948,539).** Konno illustrates a first center plate and second center plate, seen as the top and bottom surfaces of the central cylindrical member below the (C51) in Fig. 11. The three arms are shown secured between the first center plate and second center plate, though Konno fails to illustrate a pivotal securement, and at least one removable fastening mechanism. Clark teaches a pivotal connection between the arms

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(1) and hubs (2), through a toggle connection illustrated in the drawings (Col 2, lines 69-82). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the connection between the three elements (C4) and the center plate of Konno to be pivotally secured and have at least one removable fastening mechanism as taught by Clark, since Clark states that such a contractable feature for the sewer mold allows for easy set-up and removal (Col 1, lines 9-18).

Allowable Subject Matter

6. Claims 5-7 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alexandra Pechhold whose telephone number is (703) 305-0870. The examiner can normally be reached on Mon-Thurs. from 8:00am to 5:30pm and alternating Fridays from 8:00am to 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached on (703)308-3870. The fax phone number for this Group is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1113.


Thomas B. Will
Supervisory Patent Examiner
Group 3600